

Meeting of 1997-2-25 REGULAR MEETING

Minutes, Lawton City Council Regular Meeting

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MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
FEBRUARY 25, 1997 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:  
Presiding Gil Schumpert, City Manager  
Felix Cruz, City Attorney  
Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. with Invocation by Pastor John Butler, Beal Heights Presbyterian Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall bulletin board as required by law.

ROLL CALL

PRESENT: Jody Maples, Ward One  
Richard Williams, Ward Two  
Joe Dutcher, Ward Three  
John Purcell, Ward Four  
Robert Shanklin, Ward Five  
Charles Beller, Ward Six  
Carol Green, Ward Seven  
Randy Warren, Ward Eight

ABSENT: None.

PRESENTATION OF EMPLOYEE OF THE MONTH AWARD TO HA WILSON, AUDITING DEPARTMENT.

Rick Endicott, Auditing Director, introduced Ha Wilson and congratulated her for being selected as Employee of the Month. Ms. Wilson has worked for the City for two years and her duties include tracking inventory of a large number of pieces of equipment and auditing of purchase orders. Mayor Marley presented the following items to Ms. Wilson: plaque from T & S Printing; gifts from Ryans Steak House, Star Shots, Auto Shine, Goodyear, Video Triple Theater; and a certificate and two days off from the City.

AUDIENCE PARTICIPATION:

Comments of Tony Virtu are included verbatim as follows:

"I apologize to the members of the Council for the necessity of this thing around my neck. In a few moments you'll know why it is necessary. I was here two weeks ago, I presented a problem to the City Council, I think members of Council should be made aware of what is going on since I have been denied placement on the agenda under the two week emergency provision. First, I tried to give Jeff Welch, a City Investigator, information favorable to me. He told me on Friday, February 21st, that he did not and would not contact the person who holds this information although that person is a local attorney. Second, I also tried to give the City Attorney a copy of a document that was filed with the Comanche County Court on January 31st of this year. This document shows the two police officers and one county sheriff can back up my claim of ownership. He refused to make a copy and sent me out of his office. The Mayor did later make a copy of that document, I don't know if he shared it with anyone.

Third, I tried to speak with the Mayor and City Attorney man to man about a possible solution, possible, I don't know if we can reach a solution to my problem without the need for expensive litigation. Both have refused. All I ask is to try, try to come to a solution. Again, maybe we can, but if we don't talk, we definitely can't. The City Attorney has indicated to me the litigation expenses are preferred.

Fourth, after I told the Chief of Police of my peaceful demonstration beginning February 8th, he showed me in the Municipal Code that if I was inside a building that I could be arrested for trespass, but as in the one-sided mentality of a police officer who removed me from my property and allowed it to be stolen, the one-sided investigation of the City detective last year, and the one-sided investigation by the City Attorneys Office, this too is one-sided. If you read on in the Municipal Code, it says under Offenses and Crimes, let's see, 16-442, which is peaceful demonstration, all persons shall have the right to peacefully demonstrate, strike or otherwise use the public streets, roads, sidewalks or other public

property of this City for the purpose of expressing opinions or viewpoints or imparting information. There's two more paragraphs, b and c, that list what you can and can't do, you can't disrupt people, you can't block people, I have no intention of doing that. But if it is City property and it is accessible to the public, no matter what time of the day or night, you may find me there.

This problem can be handled easily. The Mayor, five members of Council, by your Charter, can call an emergency meeting, tonight or tomorrow would be nice, I'm homeless, folks. And we can try, again, we can try to come to a solution, or all of you could ignore the problem. Let me read a definition, it's the definition of cover up, taken out of the dictionary, to conceal, the act of concealing, hiding or ignoring something wrong or criminal. I'll be around for a little while. I have details if members of Council, I still won't make details public, but I will give details to any members of Council who wish to speak to me." (end verbatim)

Mike Underwood, 4634 Meadowbrook, owner of Mikes Sports Grille, said he was real unhappy due to something that had occurred directly across from his restaurant at 517 E Gore. He said the Employee of the Month also receives a gift certificate from Mikes Sports Grille, also, but the employee must park in the south parking lot because if she parks in the east parking lot, the car may be towed off after 19 years of use.

Underwood said he has approximately 60 employees, paid over \$550,000 in payroll last year and the City and State split about \$120,000 in taxes generated from the restaurant, which he considers an asset to the community. He said everything was fine until January 31 when a letter was sent to his neighbor, Mr. Frank Richards, stating that the parking east of the restaurant was not up to Code and that anyone parking there, if Richards did not put up a sign or call the police and have those individuals towed off, then Richards would be fined in Municipal Court. Underwood said he talked to Richards, who felt the restaurant had been a good neighbor, had used the property for parking for 19 years, had kept the trash picked up, and that he did not plan to make changes. Monday at 8:15 a.m. City crews removed the asphalt bumper going from the curb to the street, which allowed cars to pull into the parking area without being damaged. City crews scraped that off because it was a traffic hazard; there are two more by the highway patrol station a block away, but apparently those were not considered a "traffic hazard".

Underwood said he had tried to find out who did not appreciate his business, and related attempts in this regard. He asked which Council member had made a complaint. Shanklin said he would respond when Underwood was finished speaking.

Underwood said he had respected Shanklin for 35 years and had no idea why he wanted to send the City on a parking lot that is just for convenience. He said in one hour, 109 businesses were found, both small and large, which do not meet the parking code of asphalt; they could not afford it and would go out of business. He said his original intention was to pass that around to Council and staff so the code could be enforced. Underwood said he did not want these people going out of business because someone had something against him; but you would have to be blind not to see 150 to 200 businesses that have the same problem he does.

Shanklin said he saw correspondence from another councilman that alluded to that parking where the asphalt is up against the curb. He said the City paid a \$20,000 judgment as a result of allowing Mikes to do business the way he is, because the City did not enforce the regulation equally. He said this has not been there for 22 years but that has nothing to do with it; no one can put asphalt up against the curb and start jumping onto someone's land whether they want you there or not. Shanklin said if that were true, he could have another couple of driveways on his properties, but it violates the ordinance. He said that others say if Mikes can get by with that, why are you picking on me, and we backed off. He said he did not have the authority to direct anyone to do anything, and did not.

CONSIDER MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF FEBRUARY 11, 1997.

MOVED by Green, SECOND by Maples, for approval of the Minutes. AYE: Williams, Dutcher, Shanklin, Beller, Green, Warren, Maples. NAY: None. ABSTAIN: Purcell. MOTION CARRIED.

#### UNFINISHED BUSINESS:

1. Hold a public hearing and adopt a resolution declaring the single family structure at 1410 SW C Avenue to be dilapidated and detrimental to the health and safety of the community, and authorize the expenditure of CDBG Contingency Funds, if necessary, to demolish this structure. EXHIBITS: RESOLUTION NO. 97-\_\_\_\_.

Dan Tucker, Building Development Director, said Council tabled action on this property in August 1996 for 180 days to give Mr. Warner the opportunity to acquire the property, obtain a permit and begin remodeling and reconstruction of the house. Permit was obtained in October 1996; video was presented showing remodeling work currently being done. Exterior is closed to access. No utilities are on, however, a power pole for construction had been erected and inspected.

Tucker said the permit will expire in April 1997, however, the 180 days for which it was tabled has lapsed.

Shanklin asked if staff recommendation was to demolish. Tucker said he did not think that would be the right thing to do.

PUBLIC HEARING OPENED.

Joe Warner said he is doing the work, and the building is structurally sound. The current construction permit will expire

April 30, 1997. He requested that he be given until that time to finish the work.  
PUBLIC HEARING RECESSED.

MOVED by Shanklin, SECOND by Beller, to accept the time frame to extend the building permit to April 30, 1997.

Purcell said this is a problem that was discussed two weeks ago about the same kind of issue; Council considered this on August 13, it took over two months to get the permit and Council gave 180 days. He said this one may be a little more complicated than others but we have that continual problem where we give people six months to get it done, they do not start for five months and then request another extension. Purcell said that is not the case here but Council must pay attention to that because some of the really dilapidated buildings need to be torn down.

VOTE ON MOTION: AYE: Dutcher, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

PUBLIC HEARING CLOSED.

#### BUSINESS ITEMS:

2. Hold a public hearing and consider an appeal of the decision of the Lawton Metropolitan Area Planning Commission on a Use Permitted on Review request for attached housing at 910 and 912 NW Ferris Avenue. EXHIBITS: PETITION WITH ATTACHMENTS; LMAPC MINUTES OF JANUARY 8, 1997; MEMORANDUM FROM CITY ATTORNEY DATED JANUARY 30, 1997.

Schumpert said the appeal was initiated by the President of the Old Town North Neighborhood Association; appeal was filed with the City Clerk to appeal the decision of the LMAPC to approve the request for a Use Permitted on Review. He said 910 and 912 Ferris are two lots where an individual applied for a building permit to construct duplexes; it was determined that one of the lots was too small to house the duplex, however, by combining the two properties and allowing a Use Permitted on Review then a quadraplex, or two duplexes with a common wall, could be built. The Board of Adjustment has approved the variances as recommended by the Building Development Department and the LMAPC approved the Use Permitted on Review. The appeal was filed requesting Council overturn the LMAPC action of granting the Use Permitted on Review.

Beller said the traditions of Old Town North should be carried on. He said staff recommended denial of the appeal; a building permit was issued and the zoning was applicable. He said if Mr. Nottingham could build what he wants to build, it would probably be better than what is allowed in that particular zoning. He asked if Old Town North and Mr. Nottingham could reach an agreement to accomplish what they both want to accomplish, which is to maintain the serenity and the Old Town North atmosphere or aesthetics. He said if it is legal for these to be put in, the City would be looking at litigation and attorney fees. Beller suggested Nottingham and Johnson work out an agreement to settle the issue. Beller said he would like to make a motion to table this.

Cruz said the appeal has been filed and Council must open the public hearing. Council may affirm or reverse the Planning Commission but it would not be appropriate to table this for the parties to reach agreement because the City has received a valid appeal.

Schumpert said the owner of the properties applied for a building permit to construct two duplexes, and it was determined that there was insufficient frontage on one of the lots. He said in working with the person, a solution was found to combine the two lots and he could then in fact build a quadraplex, and the process was to obtain a Use Permitted on Review from the LMAPC, and also receive variances from the Board of Adjustment; both of those actions have taken place. He said until the appeal was filed, he could have applied for a building permit for the quadraplex because he had the ability to do so; once the appeal was filed, issuance of the building permit was suspended until the appeal was heard.

Beller said he felt Mr. Nottingham wanted to work with Old Town North and keep the neighborhood as contiguous as he could with what is there today. He said his personal opinion was that a nice little structure would look better than a trailer, although there are beautiful manufactured homes, but this does not appear to be one of them.

Dutcher asked the options available to Council. Cruz said actions could be to uphold the decision of the LMAPC to grant the Use Permitted on Review, or reverse it. Dutcher asked if Council had the ability to table this. Cruz said once the appeal has been heard, Council may defer a decision to a later date, but the parties must be listened to now.

PUBLIC HEARING OPENED.

Stephen Johnson, resident of Old Town North and President of Old Town North Neighborhood Association, presented slides and reviewed them stating that Mr. Nottingham had to go to the Board of Adjustment to get variances for lot size and frontages to build this construction project on 912 NW Ferris. During the Board of Adjustment it came out that there were economic considerations; Mr. Nottingham desired to put up four units to make it lucrative and wanted to rent the property. He said Ms. Jones, who is a member of the Planning Department, made the comment that she doubted or had some doubt in her mind as to whether this Use Permitted could be put on the lot in question. There was a petition filed with the City Clerk in early September, and it was mentioned during the Board of Adjustment; Mr. Vincent, the Assistant City Attorney, said this was really not an appropriate forum for the petition to be addressed and it would be more appropriate for it to be before the Commission or the City Council, consequently, some short thought was paid to the

petition. These were from members who live within 300 feet of the proposed building site.

Johnson said the provision under which this was granted was the attached housing in the City Code, Use Permitted on Review. The LMAPC did grant permission for the construction project and a building permit has been prepared, however, it is being held in abeyance pending the result of this hearing.

Johnson said 18-113 of the City Code covers procedures for authorizing uses permitted on review occupancy permits; subparagraph a, says that uses listed under the various districts herein as uses permitted on review are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; their nature makes them desirable to be permitted to locate therein. He said the comment he would make to that is that in an R-2 zoned district, the dominant dwelling feature ought to be two family houses, however, Old Town North is predominantly a single family district. Most of the apartments and two family houses that are there have been there since World War II and were grandfathered in when the zoning restrictions were changed to R-2 from R-4.

Johnson said Division 3 of the Code provides for R-1 single family dwelling; uses permitted are detached single family dwellings, and uses permitted on review are townhouses. Definition of townhouses was shown on the slide; townhouses are shown to be single family dwellings joined by contiguous walls. 18-540 C states that for purposes of Sections 18-540 to 543 of the code is to provide a mechanism that permits more flexible housing development and design within residentially zoned property in an R-2 district; the intent of this regulation is to allow deviations from certain development regulations in the R-2 zoned district without increasing the overall permitted density thereby providing the owner/applicant with a variety of housing types and designs. He said the comment he would make is that the key, operative words in this subparagraph are "without increasing the overall permitted density". Johnson said if one were to approve attached housing without increasing the overall permitted density in an R-2 district, then the attachment must be single family housing attached to form two family housing; otherwise, the overall density would be increased to multiple family.

Johnson said 18-541 covers general provisions for attached housing; subparagraph B states that development partition and sale of individual dwelling units in two family structures are permitted upon issuance of Use Permitted on Review. These attached housing regulations permit the sale of individual dwelling units, which is attached by a party wall to a similar dwelling unit which is constructed in conformance with use and development regulations pertaining to two family dwellings provided the unit meets the provisions outlined in 18-542. He said his comment would be that the operative words in this subparagraph are "development, partition and sale of individual dwellings in two family structures". It is significant to note that the only place in the City Code where attached housing is mentioned is under R-2.

Johnson said Division 4 is R-2 or two family dwelling district; uses permitted is any use permitted in a single family dwelling district plus two family dwellings or a single family dwelling and garage apartment. Uses Permitted on Review are any use permitted in R-1, which is townhouses. For R-3 the multiple family dwelling district permits multiple family dwellings, apartment houses, rooming houses, boarding houses, homes for the aged, resthomes, and use permitted on review is any use in R-1 or R-2. There again, that would permit townhouses.

Johnson said 18-540 covers the attached housing regulations, definitions and purpose and application. LMAPC would have been justified in issuing a permit for a townhouse since it is a Use Permitted on Review in R-1, R-2 or any district, and that could have been done, however, the requirements in other parts of the Code could not have been met.

Johnson said the LMAPC action to approve the attached housing of either four single-family dwellings or two two-family dwellings was not in keeping with the intent of the portion of the City Code dealing with attached housing. If the 15th & Columbia Partnership had owned Lots 914, 916 and 918, as well as 910 and 912, would the LMAPC have been able to authorize construction of a string of attached housing projects with two units on each lot for a total of ten units, and would that not have been a complete perversion of the intent of the attached housing regulation in an R-2 zone. It would. The reason the attached housing is mentioned in the Code only in the section dealing with R-2 is that the intent is the attachment of single-family dwellings to form two-family dwellings. It also permits the ownership and sale of each of these individual units within those two-family structures.

Johnson said it is the opinion of Old Town North that the LMAPC may have improperly interpreted the intent of the attached housing regulations for some period of time, indeed, there is no mention of attached housing to form any more than single, two-family structures, and were it so, the attached housing would have been mentioned in other sections of the City Code. The recommendation of the Old Town North Neighborhood Association is that they overturn the decision of the LMAPC regarding the construction project at 910 and 912 Ferris and deny the building permit; that those portions of the City Code pertaining to attached housing be scrutinized carefully and adjudicated as to the actual intent thereof and that the City Code be tightened up to leave no opening for misinterpretations.

Beller asked the City Planner if the problem is the contiguous wall between the two units. Bob Bigham, City Planner, said the provision was created many years ago to provide this type of flexibility, but allowed for the safe guard of the public hearing process to see whether the neighbors were agreeable to this type of development. Beller asked if the units could be built as long as there was not a wall joining the two buildings. Bigham said the applicant is authorized by R-2 to build detached duplexes on each lot. Beller said the problem then would be the contiguous wall adjoining the two. Bigham said 18-540 through 543 provides flexibility, through the public hearing process, to attach the two units, so whether they are attached or detached, there are still four units on the two properties, and they can be sold separately.

Purcell said with the definition of townhouses, if these were "townhouses", would they be permitted in R-2 zoning. Bigham

said yes, but it does not meet the other requirements for townhouses; townhouses have an attached dwelling unit which can be sold with a parcel of land and this is not the case in this situation. Bigham said townhouses are a Use Permitted on Review activity in an R-2 but the lots do not fulfill the size requirements to apply for townhouses. Each residential district allows for townhouses at different densities, but there are other requirements such as a much larger parcel of land.

Maples asked if the two parties had agreed to work this out. Beller said his statement was that Mr. Nottingham was willing to work with the homeowners association. Maples asked Mr. Johnson if that was acceptable. Johnson said that would depend on the outcome of the hearing and Councils decision on the appeal. Johnson said if Mr. Nottingham wins and is willing to allow input on the type of building he plans to construct, they would do so; however, if not, Mr. Nottingham may want to ask the Association what he could build that they would be happy with. Maples said if Council tables it, neither party would win, but if a compromise could be reached, both would win.

Johnson said the issue is the action of the LMAPC was in contravention of the City Code. He said he had nothing against Mr. Nottingham or what he was trying to do, and they would prefer a building to an empty lot or a trailer, but the issue is whether the action was appropriate.

Shanklin said the Associations main objection is that there are two lots, one 40 and one 50, and the property line will be a party wall. He said the objection is that the project is an R-4 and not an R-2, and may compromise the Old Town North plat revision.

Williams asked if it is an interpretation of the zoning that is causing the problem, and if it is an R-4 trying to be built in an R-2. Cruz said it is not an interpretation of zoning, the two properties are zoned R-2, and a duplex can be placed on each of the two lots; the issue is whether they can be attached so that the common wall will be on the property line. Cruz said that is permitted with Use Permitted on Review following the attached housing provision of the City Code, Section 18-540 to 543.

Purcell asked if the person could build a duplex on one lot and a duplex on the other lot. Bigham said yes. Mayor Marley said one lot is not big enough to do that. Bigham said on September 13, the Board of Adjustment granted a variance to allow a duplex to be built on the 40 lot. Purcell said he understood the Board of Adjustment said that the person could build one duplex on the 40 lot and the second on the 50 lot and Bigham agreed.

Purcell asked Mr. Johnson which was preferred because even if Council grants the appeal, they can build the two duplexes except there would be a distance between the buildings, and it would be the same thing except the buildings would not be attached. Johnson said the Association would have no objection if Mr. Nottingham wanted to build two detached duplexes on each of the lots, there is no objection and it is a use permitted in the Code. Johnson said the objection is that when you attach them it becomes much like Mr. Schumpert said, a quadraplex, and a quadraplex is called for in R-3, multiple unit housing.

Beller said that would be setting a precedent and Johnson agreed and said on every two empty lots, people could put in quadraplexes, if possible.

Nifa Brandt, 910 Arlington, said in Dallas, Texas, you can stick your hand out the window and touch your next door neighbors house. She said she was concerned that this would be a fire hazard in Old Town North. Brandt asked what the blue print would look like for this and asked how much distance there would be between the houses. Shanklin said there would be none, it would be a party wall, and there are none like that in Old Town North now. Brandt asked how fire regulations would affect that.

Purcell asked Mr. Nottingham if he would be willing to build two, detached duplexes. Nottingham said the problem is the 40 and he would have to build a 30 wide duplex which would look square, boxy and have no architecture at all. Nottingham said he was planning to build something much nicer than what he will be forced to build if the appeal is granted; the Association has never seen the plans or architecture, but if he cannot do it, he would be forced to build separate duplexes. Nottingham said he was trying to get away from the 10 side yard.

Sally Keogh, 506 NW Bell, said they were most concerned with setting a precedent. She said Old Town North is a beautiful neighborhood and if one person can change the rules and put up a quadraplex, it could happen throughout the neighborhood.

Steve Newcombe said he was a partner in the 15th & Columbia Partnership, which is planning the project. He said he did not know it would stir up such controversy. Newcombe said the property is dilapidated and they had spent a lot of money on the plans; the property they are wanting to build is very nice. He said he lives in North Addition and had recently spent a lot of money remodeling an old house, and the structure they want to build would be an asset to the neighborhood, but the structures they will be forced to build will not look nearly as nice. Newcombe said North Addition has a lot of this type of housing in it now, and that he had a four plex in his back yard now, although he did not put it there and it was there when he bought the house.

Newcombe said the area between 9th and 6th Street three blocks south of Ferris has a number of structures built in the back yards. He said it is not their intention to destroy the neighborhood and they did not want to upset anyone and that he did not know there were so many people who were so upset about this until tonight. Newcombe said the structure they plan to build is much nicer than the 20 or 30 structures he took pictures of that are built there already; there are

commercial buildings on Gore but are in Old Town North. He said the property is completely dilapidated at this time and they had to evict a homeless person from it. It was their intention to build something that would be an asset, and would certainly be better than a vacant lot or the existing mobile home.

Jane Shaw, 1001 NW Bell, said she lives across the street from Mr. Newcombe and his quadraplex. She said it does change the complexion of the neighborhood and street. Shaw said this would be a legal, permanent change that everyone could do. She said she has an apartment that no one lives in but it has been there since World War II. Shaw said it is not a quadraplex with four people, four cars, and their four friends with their four cars, or an 18 wheel semi-truck cab parked in front of your house because they live there; were talking about a community of families with children who would like to have one family dwellings.

Linda Mayes, 1007 Columbia, said she is a member of the Association but would like to say on Mr. Nottingham's behalf that he has a point in that if he ends up building two duplexes, and if he cannot make them look nice, then Old Town North should consider that. Mayes said Nottingham should also respect the Old Town North Association's point of the implication of a precedent change. She said if those two issues could be satisfied as far as not setting a precedent, what they are concerned about is having other than single family dwellings permitted or an apartment complex being built in the neighborhood, and that is not desired. Mayes suggested it would be good if some compromise could be reached where they could be assured that the integrity of the neighborhood could be preserved, the Code could be tightened up, and in this particular case reach a compromise with Mr. Nottingham so that something nice could be built.

Mr. Johnson said Mr. Newcombe said they were trying to upgrade the neighborhood, and those intentions are well directed, but more and more older homes have been upgraded and are making wonderful homes for people throughout the district. He said it is not a run down neighborhood and it is being improved all the time.

Yvonne Johnson, #7 NW Fort Sill Boulevard, said the issue is that Mr. Nottingham is trying to build a quadraplex, and Old Town North is zoned R-2. She said in 1976, the residents asked Council to approve the R-2 zoning, which was done. Johnson said at that time, they said the neighborhood was important because in a few years it would be eligible for the National Historic Register; the area is now eligible and in April, the Oklahoma Historical Society will take nominations for this district to be placed on the National Register.

Mrs. Johnson read the following as to the historic value: "Its significance primarily is architectural as it contains the largest concentration of pre World War II housing in the City. This includes one of the largest concentrations of craftsmen bungalow style homes in Southwestern Oklahoma. The district also contains a wide variety of other architectural styles including national folk, Tudor revival, colonial revival, mission, Spanish colonial revival. The district also has historical significance as the first major residential area in the City and many of its residents were prominent citizens. In short, the Old Town North Historic District is the best physical representation of what Lawton was like prior to its fundamental transformation during and after World War II." She said she was sure that none of the members wanted to shown as voting to do anything to damage the historical or aesthetic integrity of Old Town North. She asked that the appeal be upheld.

PUBLIC HEARING RECESSED.

MOVED by Maples, SECOND by Shanklin, to reverse the LMAPC decision granting the Use Permitted on Review, and approve the appeal sought by the Old Town North Neighborhood Association. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Dutcher. NAY: Williams. MOTION CARRIED.

PUBLIC HEARING CLOSED.

Council recessed at 7:10 p.m. and reconvened at 7:15 p.m. with roll call reflecting all members present.

3. Hold a public hearing and adopt a resolution declaring the main fire-damaged structure at 1207 SW G Avenue dilapidated and detrimental to the health and safety of the community and authorize the expenditure of CDBG Contingency Funds, if necessary, to demolish this structure. EXHIBITS: RESOLUTION NO. 97-\_\_\_\_.

Dan Tucker, Building Development Director, presented a video of the structure which had been involved in a fire on November 20, 1995.

The structure is dilapidated; interior has extensive fire damage; it is open and unsecured. Staff has been working with the owner to arrive at a solution but has not been successful. The property also contains another building to the east, which had not been a problem, but it has recently become unsecured and it will be brought to Council at a later date if it continues to stand open.

PUBLIC HEARING OPENED.

Dollie Collins, owner, said she contracted Mr. Cruz, Building Development, who had referred her to Mrs. Hamilton, Housing & Community Development, to see if the house could be repaired. Ms. Collins said her mother used to live in the house and that Mrs. Hamilton said it would require \$16,000 to fix the house and that a contractor would have to be found. She said she would like to sell the property to the resident next door, who would like to tear it down.

Green asked if the prospective buyer is present. Dorothy Woods, 1201 G Avenue, said she would like to buy the property, tear down the fire damaged structure, and repair the structure that was not damaged by the fire. She said she had not

obtained a demolition permit because they were running a title search and the abstract is being brought up to date, and as soon as that is done, an application will be submitted for a demolition permit.

PUBLIC HEARING RECESSED.

Purcell asked how long it would take to tear the structure down. Ms. Woods said the permit allows 30 days to start and a total of 90 days to have everything finished, and that she would request that amount of time.

Williams asked what the normal routine would be if the Council adopted the resolution to have the structure torn down and paid for with CDBG funds. Cruz said the structure would be torn down and a lien would be filed on the property with the County Clerk; the costs would be placed on the tax rolls and the City would be reimbursed at a later date. Williams asked how long it would take the City to process the paper work and get the structure torn down. Tucker said the owner is given a 15 day period to obtain a permit to demolish; if that does not happen, the City obtains bids, and selects a contractor in two to three weeks. Tucker said the 30 days in the demolition permit to start work is part of the total 90 days allowed by the permit. Tucker said the City's contractor would have the same 90 days, but additional time would be needed to award the contract.

Cruz asked if the resolution covers only the building damaged by the fire and Tucker said yes, and it does not include the other building and that notice had not been given on the other building. Williams asked Ms. Collins if she would take immediate action on the other building to get it secured or repaired, and response was yes.

Green asked if Council could extend the time of 30 days to 60 days for the present owner and the buyer to make the exchange. Cruz said the resolution provides for a certain time frame. Schumpert asked if Council could give 180 days without adopting the resolution. Cruz said yes, but if it is not done, the entire process will have to start over.

Ms. Woods said she had lived next door to this for a year and that it is to her advantage to tear it down. She said she could do it with much less hassle.

Warren asked if Council could table the item. Schumpert said if time is granted and the work is not done, the process must be started over.

Cruz said the public hearing can be recessed, and the item can be tabled to be returned.

MOVED by Green, to table this for 60 days to give time for the property transaction to be made and staff would not have to start over. MOTION DIED FOR LACK OF SECOND.

MOVED by Beller, SECOND by Shanklin, to give the property owner 90 days to complete demolition and to clear the property to the requirements desired.

Williams asked if Council could agree that it is a dilapidated structure, a fire hazard and detrimental to the health and safety of the community and call for its destruction, but leaving the cost of the destruction up to the new owner. Shanklin said the new owner is not requesting CDBG funds. Williams said he understood that and said it would be the staff recommendation, less the CDBG funding for removal of the structure. Williams said the City would be saying it was a dilapidated structure that needs to be torn down, and the owner has a certain amount of time to do that at his expense. Cruz said if the owner does not comply by that time, the City can initiate demolition.

Mayor Marley asked that the motion be stated and the Clerk stated the motion as shown above, pointing out that the motion does not call for adoption of the resolution. Purcell asked if this is not done within 90 days that the process would have to be started over again and Cruz said yes.

SUBSTITUTE MOTION by Purcell, SECOND by Beller, to table this for 90 days. AYE: Beller, Green, Warren, Maples, Williams, Dutcher, Purcell, Shanklin. NAY: None. MOTION CARRIED.

4. Hold a public hearing and adopt a resolution declaring the main structure at 1008 SW H Avenue to be dilapidated and detrimental to the health and safety of the community, and authorize the expenditure of CDBG Contingency Funds, if necessary, to demolish this structure. EXHIBITS: RESOLUTION NO. 97-\_\_\_\_.

Item was removed from agenda; owner has obtained a demolition permit.

5. Hold a public hearing and adopt a resolution declaring the main structure at 1406 NW Kingsbury Avenue to be dilapidated and detrimental to the health and safety of the community, and authorize the expenditure of CDBG Contingency Funds, if necessary, to demolish this structure. EXHIBITS: RESOLUTION NO. 97-25.

Tucker presented a video of the property; building is vacant; wooden exterior is open but not extensively damaged. Vandalism has taken place inside the structure and it was brought to the attention of Building Development by the Police Department because youth and others have been using the structure. Multi-family units are adjacent and are well maintained. 1406 Kingsbury is a blighting influence on the area.

PUBLIC HEARING OPENED. No one appeared to speak.  
PUBLIC HEARING RECESSED.

MOVED by Williams, SECOND by Warren, to adopt Resolution No. 97-25. AYE: Green, Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

PUBLIC HEARING CLOSED.

(Title only) RESOLUTION NO. 97-25

A RESOLUTION DETERMINING A CERTAIN MAIN STRUCTURE TO BE DILAPIDATED AND DETRIMENTAL TO THE HEALTH, BENEFIT AND WELFARE OF THE COMMUNITY, AND ORDERING THE DESTRUCTION AND REMOVAL OF SAID DILAPIDATED STRUCTURE.

6. Receive a briefing on the Hotel-Motel Tax from the Lawton Chamber of Commerce and Industry. EXHIBITS: MID-YEAR ALLOCATION REPORT; LIST OF ACCOMPLISHMENTS.

Mark McCord said the mid-year expenditure report had been provided and shows that \$159,786 has been expended; \$189,073 has been collected. The reason for the difference is because some items anticipated for expense in previous months will not be expended until later months. It is anticipated that the gap will be zero within the next 30 to 45 days as those expenditures come on line. Economic Development line item shows expense of \$29,249. All expenditures meet the requirements within the hotel/motel tax agreement. Tourism Development expense is \$92,423, and the only salaries paid from hotel/motel tax are within this department and there are only two salaries paid, as per the agreement, and those funds are calculated within this \$92,000.

McCord said items had been miscoded on the monthly expenditure report, salaries being one, and they were included on the wrong line item on shared administrative cost, and it should have gone under the Tourism area as was agreed to previously. Updated report for January 31, 1997, will reflect that change in coding, as well as several other items that were miscoded from the beginning.

Sports Promotion, out of \$20,000 allocated, \$18,152 has been spent and most of those expenses come within the first six months of the year. Fort Sill Enhancement, expense has been \$9,206; Shared Administrative cost, expense has been \$10,756.

McCord said reviewed activities and accomplishments during the first six month period as: Pope Industries, 125 jobs, \$2.5 million payroll. Pope has qualified for the Oklahoma Quality Jobs Program; their manager will be transferred here in April and employees may start work by June 1. Bar-S Foods Company, 350 jobs, \$8 million payroll. Defense Finance and Accounting Service, a great deal of time has been spent working with the Oklahoma Congressional Delegation to be sure this becomes a reality, and as of January 1997, 151 jobs have come on line and a payroll of \$4.7 million; 575 jobs are anticipated ultimately. ITI Marketing, 225 jobs committed to with 209 on line now; \$2.9 million payroll. TCIM Services, also a telecommunications company, 225 jobs with \$2.9 million payroll; 14,000 sq. ft. structure is being built on 11th Street, and hiring will commence upon completion.

McCord said part of the success of economic development is creating image in the market place. Trade shows are a part of this and LCCI staff will attend the following: Food Processors Trade Show in Las Vegas; National Manufacturing Show in Chicago; and Super Comm Telecommunications Show in New Orleans. LCCI will complete a full color economic development brochure within the next 30 days; it was anticipated that this expense would be incurred in previous months but the design and printing took longer. By May 1 there will be an on line home page and production of an economic development video will begin. Interactive CD Rom will be done for marketing and only 5% of the economic development organizations in the country are using this technology. This will be used at trade shows and firms can be given a CD Rom to take home.

Support Net Program for business expansion and development; first meeting will be held tomorrow to begin the small business assistance. Visits with local industries will be conducted to see what can be done to help them expand and what can be done to tear down impediments to their expansion.

Sheila Lee, Tourism Director, said the purpose of the Tourism Development Task Force is to enhance the convention and tourism potential thereby creating economic impact and jobs. They strive to bring conventions and events which enhance the community socially as well as economically. 1997 Oklahoma Junior Beef Expo will be hosted by Lawton in April. Four tournaments are scheduled this summer through the Amateur Softball Association, and the participants will create a desirable environment for youth and families, as well as creating an economic impact. Mid America Dance Network Conference is scheduled for October 1997 will allow the community to be showcased with outstanding performances of the arts, helping to encourage growth in this segment and highlighting talents found in the community. A host of military conventions scheduled this year will allow those who have lived and trained in this area to return and enjoy the rich history which is a vital part of the community.

Lee said gatherings such as the Oklahoma Association of Environmental Education will provide the opportunity to showcase our accomplishments regarding environmental awareness and educate others as to how and why this is done. Visitors survey has been designed and placed in local hotels to receive data.

McCord said the Governmental Affairs efforts have enabled Fort Sill to gain \$12.8 million in necessary MCA funding, this is a plus up and is not budgeted money. He said no organization can do this alone and this is the reason the economic



development team was formed which is a coalition of individuals from a broad section of the community who work every day with prospects. McCord said they consider it a privilege to be custodians of these resources and that they endeavor to use them in ways to create economic impact within the spirit of the agreement. He said the annual report will be presented in a few months.

Green said the Miss Black Oklahoma Pageant will be here in June 1997.

Shanklin asked about the 225 telemarketing jobs. McCord said one firm currently has 209 jobs and the other is waiting for their building to be finished. Shanklin asked how many hours the employees get to work. McCord said the agreement was that 90 of the employees have to work 40 hours a week, and the others may work flexible hours, but all full time employees must be offered benefits and the wage rate must be at least \$6.50 per hour for those positions; an incentive was provided to these companies from Comanche County and that was the agreement made with the companies.

Shanklin said he saw seven or eight payroll checks cashed by these individuals which did not reflect that. McCord said he would check into that because the agreement is specific. Shanklin said 225 jobs to him should be equal to 40 hours a week. McCord said that is correct in many cases but in Lawton Fort Sill there is a unique situation where many spouses of soldiers and many others who wish to have flexible hour employment, which these companies provide. He said TCIM will be in bound telecommunications and 90 to 95% of the jobs will be full time with benefits.

Beller said Pope Industries will be a great asset and asked how aggressive we are in seeking spin off companies such as this. McCord said they aggressively pursue such companies because Goodyear is a fantastic corporate citizen that provides many opportunities in that regard. Pope will manage a Goodyear contract, as well as four or five others, from here. McCord said they are also focusing on companies that will supply Bar-S Foods, and a company will be visited next week who may be able to supply Bar-S Foods box needs.

Beller said on Pope Industries, they went from a building they thought there would use to another building. He asked if we are working with them to be sure it is ready as quickly as possible. McCord said yes, they ultimately located in the old Thermo Plastics building on S 11th Street near the Airport, which will allow them to get in faster because they can inhabit the building and begin work while expansion of the facility is being done.

McCord said the City has been involved in projects, and Building Development has done a great job in providing support; the County has also been instrumental, as have Goodyear and Vo Tech.

Purcell complimented the Chamber on the progress made and the report. He asked if reprogramming was needed at this time and McCord said no. Purcell asked that Council be provided a copy of the budget by category by month that was discussed. McCord agreed and said that had been provided to the Finance Director.

7. Consider waiving the "no bid" response for Alternates #1 and #2 by Cajun Contractors, Inc., and consider awarding a construction contract for the Wastewater Treatment Plant (WWTP) Renovation Project 97-2. EXHIBITS: BID TABULATION; LETTER OF RECOMMENDATION FROM CH2M HILL, INC.

Schumpert said it seemed to be a long time getting to this part of the project and that many briefings had been held with the consultants and staff; plans were approved; DEQ approved the designs; bids were received, and this will allow over a 26 month period to upgrade the current treatment plant and expand its capacity to 18 mgd which will significantly affect the certificates we have from DEQ. Three bids were received for this project; the bids were reviewed by staff; the credentials of the firms have been checked and staff and the project manager with CH2M Hill have visited with them. Recommendation is to award the contract to Cajun Contractors, Inc.

Schumpert said staff and CH2M Hill had included a number of alternatives in the project to determine if they would work or be significant changes. Some of the alternatives were to verify or to double check what we are doing and whether it is the right approach, and give one more opportunity to review to see that the right approach was taken in the plant design. Because the apparent low bidder indicated a "no bid" response, the Council action must be to waive the "no bid" responses and then award the construction contract.

Beller said information states under Addendum No. 1, part 1, 2a, "bid amounts for each of the listed bid alternates must be provided for the bid to be considered responsive". He said the City requested that and asked if we are now saying that we do not have to adhere to this particular paragraph that says it must be a responsive bid. Schumpert said it was his understanding that the Council has the ability to waive that, and that information is contained in the fourth paragraph on the second page of the background states: "The Oklahoma Supreme Court has considered that term to allow public bodies to consider not only the lowest price for the work to be done, but also to select the bidder who has the ability to respond to the requirements of the contract without defeating the overall objective of competitive bidding. Under the Courts ruling, the Council may consider and determine Cajun Contractors, Inc. as the lowest responsible bidder and award the contract."

Beller asked if there would be repercussion from those who sent in responsive bids. Cruz said the addendum was made that they had to bid on the alternatives, but the bid packet also provided a waiver of any informalities and the Council is asked to determine that this is an informality which can and ought to be waived. Cruz said the key issue and technical term is the lowest responsible bidder; that is the term used in the City Code and the Competitive Bidding Act, and the Supreme Court has considered the lowest responsible bidder. Beller asked about responsible bidder versus responsive bid. Cruz said City staff uses the term non-responsive, but the Council may waive irregularities and staff is requesting that this be

considered as an irregularity to the bidding process; if that is waived, the bid can be awarded to Cajun Contractors.

Shanklin said he asked for background on the builders several weeks ago and was told that it would be provided, but that he knew that it would not be provided. He said this is a \$17 million project, one of the biggest secrets in Southwest Oklahoma, and that he had heard nothing about it except what he read in the agenda packet. Shanklin said he was extremely upset with it, and that Mr. Ihler is not present, but the story he told Mr. Ihler a year ago was that we would get a fleeing because contractors, on something of this magnitude, there will be only one guy that bids.

Shanklin said on the second item, the one they want us to give it to is a no bid, he said there is no change, its just alike, but the other one wants \$500,000 more. He asked if that was really a bid, and said that the next item where it was said no bid, the next guy wanted \$85,000 more. Shanklin said he would not go for this at all, and there are several other reasons; how many housing units are in our perimeter of the ridge line that we have left before we build this 18 mgd plant and start having to pump over the ridge line from wherever to use that plant. He said DEQ projects 100 gallons per citizen, including inflow and infiltration; in 1996 we did 8.87 million, or 120 gallons; that is just barely out of the range for compliance. Shanklin said we only treated 9 so were going to bring it to 18, and if it is 100 gallons per citizen, it will serve 150,000 citizens, but we have to have a little bit for our industry. Shanklin said the cart is before the horse because first we build the plant, and then come back to take care of the I & I.

Shanklin said we need to go to DEQ or somewhere and say this is not a responsible bid. He said they have to be smarter than to bid \$500,000. Shanklin said he could not support awarding the contract until we sit down with the consulting engineer and have a workshop because this is big bucks, their fee is \$2.1 now, which is almost 12%; the fee curve is somewhere around 7.5% when you reach that \$20 million range.

MOVED by Shanklin, SECOND by Maples, to set up a special meeting with those engineers, workshop, to see how we come out, see how they arrived at some of this, and not award the contract tonight.

Williams asked what would be accomplished with a workshop. Shanklin said we may decide to go to EPA and ask them to look at it and see if we should rebid it. Williams asked if Shanklin was questioning the numbers for the 18 mgd plant. Shanklin said no, and he did not think that was needed but was not successful. Shanklin said Fort Sill has not stabilized but we are going to build a 18 mgd plant, and if it is 100 gallons per citizen per day, just divide 100 into 18 million.

Williams asked if this was one of the projects in the 1995 CIP and Mayor Marley said yes. Shanklin said he wanted to get our moneys worth.

Williams asked if anything will be deducted from the base bid as a result of the deductive alternates. Schumpert said none of the alternates are recommended.

Beller asked if we need items one and two. Schumpert said no. Beller asked why they were included. Schumpert said the key word is "substitution"; it was a substitution for the dry pit prerotation pumping system. Schumpert said the question was whether the pumping system we were putting in was the best that the industry had, and as one last check to make sure we did not miss something, or if there was something out there that was better, and we believe the reason for the plus numbers, particularly the one that is \$500,000, is that the bidder was attempting to say that he was not going to fool with that and did not want to bid for that; and the second one is the same thing, it is a substitution for a spiral scraper type clarifier mechanism, was there another type of mechanism out there that would be better than what we were looking at in the bid package. Schumpert said obviously there was not because their system would cost more than ours and ours will accomplish the work, so it was a reality check one more time because it is a project of this magnitude, our engineers estimate was \$18.2, to make sure we were setting up the plant to do the job in the most efficient, effective, economical fashion. He said those two items were substitutions, and you can draw from the way the other two bidders bid it is that they were saying no, if you do it any way other than what you are doing it, you can, but we will charge a large amount for that, so we said we would stay with the current system for both of those actions and will not substitute.

Purcell asked Shanklin if he thought the company had over bid on the \$17 million or that the City should have had the firms bid on something smaller than 18 mgd.

Shanklin said none of the current members were present when this originated; others were fed the bait, then others the hook, and now the sinker and we get it all right now. He said if we build an 18 mgd plant, where will the people come from to use it unless you pump the sewage to it. Shanklin said he would blame this on the consulting engineer and asked why we would not build a plant west of town; you will have to pump over the ridge line, and a 18 mgd plant will handle 150,000 people, and when would we have that many people. Shanklin said the current population is going to have to pay for this, and the money could be better spent elsewhere.

Purcell asked if the thought was that we do not need an 18 mgd plant and therefore this bid is too high, and we need a workshop to discuss that. Shanklin said we did not get a competitive bid. Purcell said three bids were received. Shanklin asked if the one firm could be \$500,000 out in left field. Purcell said one company bid \$18.7 million and the possible winner bid \$17.6 and the alternates were add ons. Shanklin said he wanted to be able to talk about it and that he still did not know who these people.

Mayor Marley said in 1985 the plan was for the plant to be bigger and they ran out of money, so another phase was created and the public voted down funding for that because in the late 1980s it was fine, but we are beyond that. He said

you cannot build today what you need today and hope to be able to expand in the future but you must look ahead. Mayor Marley said he did not know whether it should be 15 or 18 mgd, but the plant was supposed to be 18 mgd and some of the parts will handle that. He said he agreed with the need to understand this.

Shanklin said on the request to waive the no bid response on an \$18 million project, we should be more professional than that. Mayor Marley said it appeared only to confuse the issue, but the basic bid should be given consideration.

Williams asked the consulting engineer about pumping over the ridge line, and asked for information about other projects that have been done by Cajun Contractors. Murray Fleming, CH2M Hill, said there is a lot of history on the plant sizing. Fleming said the base bid is what the contractors bid for everything in the plans and specs; the reason the alternates were put in was to hedge our bets that we would be within the money. Fleming said he had promised the City that the bids would be within the \$18.8 million and the City has done some of the work so the engineers estimate went down to \$18.2; bid alternates allowed that if the bids came in over the estimate, that some of the items could be deleted.

Fleming said on the first two alternates, they had been approached by manufacturing representatives on some equipment that said their equipment would save money. He said they did not believe it and put the best item in the base bid, but allowed the contractor to circle add or deduct on the equipment because the representatives said it would be a savings but they felt it would be additional cost. Fleming said they found out a week ago that the people were having a hard time getting prices on those items and could not put together a good bid with a number for it, and the other two contractors threw some money at it, as Shanklin stated, and that is not an equitable thing when one contractor shows \$500,000 and the other shows \$100,000, but they were trying to put some numbers in there, as a basic guess. He said Cajun could not get a bid on it so they indicated a no bid. Fleming said the rest of the alternates were specified as deducts because items were being deleted, but on the first two, they did not know if it would be additional or deductions.

Fleming said they had over 75 plan holders on this job between subcontractors, suppliers and general contractors; six general contractors had specifications although one was not really in the business, and two of them dropped out a week before the bid because they won work somewhere else. He said the bid was below the estimate and they visited with the firm to be sure they had not left something out, but Cajun indicated they felt good about their bid. Fleming said they checked nine references on six projects ranging from \$5 million to \$19 million projects, so the firm is a going concern in the Texas, Oklahoma, Louisiana area, and good references were received. He said he had seen a few projects rebid and had never seen any get less expensive.

Shanklin said he did not hear an answer to the question about the ridge line. Fleming said he addressed the population. Shanklin said there is only so much land left that can be built on within the ridge line and still have gravity flow to the Wastewater Treatment Plant, otherwise, it will have to be pumped. Shanklin asked if an 18 mgd plant can handle 150,000 people. Fleming said he would have to look at the numbers, but the 15 mgd plant was based on the 2020 Plan to serve the population shown, and that the 3 mgd extra was brought to Council because there were only a few things that had to be done to go from 15 to 18 mgd because of the existing facilities being converted, and direction was received to go to 18 mgd.

Shanklin asked if Fleming could see that the plant would be too big to serve only those inside the ridge line. Fleming said he was going only on the 2020 Plan and did not know if it included land beyond the ridge line or not; they were given a population and told to plan for that.

Bob Bigham, City Planner, said if the question is what the population could be within the ridge line, it could be several hundred thousand. Shanklin said some sewage is being pumped now. Bigham said there are some minor ridges within the City, but there are no pump stations going outside the major ridge line. Shanklin asked if there could be 200,000 people inside the ridge line and Bigham said yes. Bigham said there are several minor ridge lines, one for Nine Mile Creek tributary, Cache Creek, Wolf Creek, Squaw Creek; each has its own ridge line; in East Lawton there is a minor ridge line and there are some pump stations on that. Shanklin asked if you could go further east and Bigham said yes, that area will still gravity flow into the treatment plant but there are no transmission lines.

Beller said Fleming made the statement that numbers usually increase if the project is rebid, and the base bid is fine, but the differences between the alternates is substantial; one is \$66,000 on alternate three versus \$227,000 versus \$210,000, and that bothered him. He said on alternate six there is a \$190,000 bid versus a \$350,000 versus \$350,000. In the digester gas burner, \$43,000, \$42,000 and \$3,400; the figures cause concern. Fleming said these numbers are not being considered in the award of the project, but would have been if deductions were needed. Beller said the reason the alternates were included was that they may have been needed, and did not understand the hedging portion on the alternates. Fleming said if the low bid had come in at \$8.5 million and we needed to come in at \$8.2, we would look for \$300,000 in deducts and pick which ones the plant could do without. Beller said that is like building a car and not putting in a carburetor. Fleming said it is not that important of a part. Beller asked why we asked for it then and that was his point, maybe we have asked for something we do not really need in this \$17.6 million; the City is being scrutinized because it is looking forward to a \$61 million sewer renovation project and for Council to go with this, it is a lot of money to the people of Lawton.

Schumpert said when the sales tax election was being held, the citizens were told that this plant would be built and that the three projects would be done no matter what; however, we held the consultant to the line several meetings ago and caused him to guarantee that this plant will not cost more than \$18.7 million and now he is guaranteeing that it will not cost more than \$18.2 million because we have some deducts. Council was also told that the 15 mgd plant would meet the 2020 Plan needs, however, for a little more money, in this magnitude, it can be made 18 mgd, and Council agreed that

should be done. Schumpert said if the lowest bid would have come in at \$18.5 million, Council has the option to ask what could be changed or do less and ask what it would cost for the 15 mgd versus the 18 mgd. Schumpert said there was a need for flexibility to be able to stay within the money and staff was pleased that none of the deductions had to be taken. He said the base bid includes everything needed to have an 18 mgd plant and it is under the engineers estimate and the number which CH2M Hill said it would be.

Purcell said Cajun would still be low if all the deducts were taken; they would be \$17,082,000; Western Summit would have been \$18.6 million and Archer-Western would have been \$18,034,000.

SUBSTITUTE MOTION by Purcell, SECOND by Williams, that we waive the "no bid" response and award the construction contract to Cajun Contractors in the amount of \$17,627,000 for the WWTP Renovation Project 97-2.

Shanklin said when we were talking about the 18 mgd plant, nothing was ever said that the engineering was above and beyond that, and that is \$2.1 million.

Beller said he was convinced of the need for the plant and that it should be 18 mgd, but that he was confused about the bid alternates and waiving that. He asked the attorney if the City was in the clear as far as that point and Cruz said yes.

Maples asked what size plants there are in Oklahoma City or Tulsa. Fleming said Tulsa has two 42 mgd plant and one 12 mgd plant.

VOTE ON SUBSTITUTE MOTION: AYE: Maples, Williams, Dutcher, Purcell, Beller, Green, Warren. NAY: Shanklin. SUBSTITUTE MOTION CARRIED.

8. Consider approving a resolution changing the name of the Lawton Municipal Airport to Lawton-Fort Sill Regional Airport. EXHIBITS: RESOLUTION NO. 97-26.

Beller said there had been discussion about this for several months at the airport, and they attended a transportation committee meeting; this met with approval from those at Fort Sill who are elated that we are trying to work toward a joint usage airport. He said the name change is not just for the sake of change, but it is to try to accomplish a mission to bring Fort Sill and the Lawton Municipal Airport together as one. Beller said there is a downsizing in the military of airfields, and it is our hope and desire that we can enhance the Lawton Municipal Airport with the name change to bring in more activity. Another reason is that in some major terminals, in Dallas particularly, the Lawton area is listed on some boards as Lawton Fort Sill and on others as Lawton, and the use of the Lawton Fort Sill name is preferred. Beller said the Airport Authority passed a resolution this morning recommending the name change, and said there is a minimal cost involved on lettering. He said the Airport Manager had assured him that funding would be available for the lettering, which will be in the hundreds of dollars range.

MOVED by Beller, SECOND by Purcell, that Resolution No. 97-26 be approved changing the Lawton Municipal Airports name to the Lawton Fort Sill Regional Airport.

Green said she asked Beller to attend the transportation meeting while she attended something else.

VOTE ON MOTION: AYE: Maples, Williams, Purcell, Shanklin, Beller, Green, Warren. NAY: Dutcher. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-26

A RESOLUTION CHANGING THE NAME OF THE LAWTON MUNICIPAL AIRPORT TO THE LAWTON-FORT SILL REGIONAL AIRPORT.

9. Consider approving the record plat for Stonebridge Estates and accepting water and sewer improvements, maintenance bond, utility easement outside the platted area for the water main extension, and warranty deed or easement outside the platted area for drainage. EXHIBITS: PLAT MAP; DRAFT LMAPC MINUTES. (MAINTENANCE BOND AND PERMANENT UTILITY EASEMENT ON FILE IN CITY CLERKS OFFICE)

Schumpert said he was visited by the initiator of this request, and it was represented to him that there was only one item remaining on the list of conditions to this that had been applied by LMAPC and that had to do with a drainage easement, and it was in the hands of the attorneys. He said the individual felt the attorneys would be able to work that agreement out by the time of this meeting, and since that was the only remaining thing, he did not wish to have to wait another three to four weeks before getting this approved based on the one item left to be done.

Schumpert said he agreed to place the item on the agenda and agreed with the initiator that if we were not able to come to an agreement on the language for the drainage easement or right of way or whatever the document would be that the attorneys would finally agree to, then he would pull the action. He said that was the agreement they had at the time they left the meeting. Schumpert said since that time he had been told there were actually eleven conditions that were placed on it, and at the time he told staff this would be on the agenda, only two of the conditions had been met, so he said we would proceed. Schumpert said all of the conditions have been cleared with the exception of the one they met about. He said several documents have changed hands and the language in the document that is in disagreement has to do with what is now a permanent drainage right of way document which indicates that the City would maintain the trees and shrubs in that drainage easement or right of way in their natural state. At the time of the meeting, Schumpert indicated to the

initiator that the sole purpose of having a drainage easement was for the City crews to have the ability to clear or manage it so that we would not have a situation such as the one that now exists in Meadowbrook, and to have language saying we would maintain things in the right of way which could affect the drainage, that he could not support that.

Schumpert said as of today, that language is not included, but in the mean time, a number of Council members had contacted him and corrected his thinking regarding it be pulled from the agenda, that it should remain on the agenda, and it is on the agenda. He said it is a serious situation to staff because we cannot agree or recommend language which indicates the City will maintain trees, shrubs or whatever they may be, in a drainage right of way. He suggested the City Attorney outline legal options available.

Cruz said LMAPC approved the record plat based on certain conditions, one being the granting of the right of way for the channel, which is required by City Code. He said if that condition is not met, then the LMAPC Chairman is under no authority to approve the plat and the record plat must be approved by the LMAPC and signed off by the Chairman, and approved by the Council and signed off by the Mayor. If one of the signatures is missing, it would not be accepted for recording in the County Clerks Office. Cruz said drainage is required in the City Code; at the time the construction plat for this subdivision was presented to LMAPC and Council, it included this drainage area. At the time the record plat was presented to LMAPC, and is now being presented to Council, it does not include that drainage area, that portion being stripped from the record plat which should be in the record plat as part of this process. He said if Council were to consider approving this record plat with some modification with respect to the grant of the right of way for the drainage, any modification to the requirement of the LMAPC should not in any way degrade the intent of the LMAPC. Cruz said if a modification is made and it is within the intent of the LMAPC, and that is for the City to have the capacity, ability and right to clear the channel without having to get permission from the owner, that is within the intent; but if you accept this with the requirement that we must have to request permission from the grantor each time we enter that property, then that would be against the City Code and against the intent of the conditions imposed by the LMAPC, and under that situation, the record plat must be returned to the LMAPC for reconsideration.

Shanklin asked what if this person did not own that land. Cruz said at the time the property was presented for the construction plat, it included that drainage area. Shanklin said the document he was looking at did not show that. Cruz said Shanklin was looking at the proposed record plat, which deleted the remainder of what was in the construction plat. Cruz said at the time the construction plat was presented, the developer owned the channel. Cruz said the question is if the developer does not own the channel, is there a requirement for the off site improvement and the answer is yes, the City Code states the LMAPC has the right to require the dedication of drainage channels which are not part of the subdivision.

Williams said water flows through it now and the City has never done any work out there. Dutcher asked about the Holy Family Catholic Church and Beller said the water runs behind it. Dutcher said the water would then run behind this property. Cruz said the property is being developed under the subdivision regulations and it is not just one small tract at a time.

Purcell said from all the information he had in writing, Mr. Eason and his personnel did not know about this submission of right of way dedication and approval form for drainage area located outside the plat was needed until it went to LMAPC on February 12. He said he had asked if there was a document or letter showing that Eason was notified prior to that date at the LMAPC meeting that he had to do that submission of right of way dedication. Purcell said he had a problem with that because it is indicated on a letter dated 25 November to Landmark Engineering from the Planning Department that there was discussion regarding the requirement that the drainage right of way on the western portion of the plat be deleted from the platted area, and that is in fact what happened; I recommend that you not make the change because Mr. Eason would be responsible for the maintenance of the channel, well, that is what he wants to do, he wants to remove it and be responsible for the channel, so this is coming on 25 November that if he removes it, he will be responsible and he said he would remove it and be responsible, then on 12 February we say he cannot do that. Purcell said he had a problem with that but perhaps there was something where Eason was notified prior to 12 February that he could not do that and the only way he could get this was to do the easement.

Purcell said all Eason really wants to do is somehow preserve for as long as possible the natural trees in that area, and he knows it will not be forever and the people who bought the adjacent land know it also, eventually something will happen and the City must have a recourse to be able to do something with the drainage area to prevent a bad situation in the future. He said if some wording could be included where the City would attempt to leave it as long as possible, that Mr. Eason could agree to that. Purcell said it seemed the attorneys on both sides should be able to work that out to everyone's satisfaction.

Beller said time is of the essence because builders are waiting to build; construction could begin in March and if it has to go back to LMAPC, it could be delayed 60 days.

Cruz said the approval of the record plat should and must meet the intent of the dedication; based on Purcell's comments, a proposed right of way document has been sent back and forth. If Mr. Eason were to agree to a modification of the document that was sent to his attorney on 17 February where we added language to the effect that "with the right of ingress and egress to and from the same for the purpose of installing, constructing, operating, maintaining, repairing and replacing in, over, through, and upon said property as described a drainage channel along with the further right to operate, maintain, repair and replace the same"; if we were to add the following terms and he agrees, "however, the City will endeavor to maintain the trees and shrubs in their natural condition, their natural state, if possible". Cruz said if Eason is agreeable to that, he would say that meets the intent of the LMAPC and felt that unless he was totally wrong, that

the Commission and the Chairman would sign off on the plat.

Al Jung, Landmark Engineering, said he is the engineer of record on the project. He asked Cruz if that was a drainage right of way document. Cruz said yes. Cruz said what was initially transmitted to the attorneys in Oklahoma City was an easement document, and the same legal description is shown and everything is the same except for the addition of that language.

Jung said he knew Mr. Eason was concerned about a fee simple transfer, such as a warranty deed or a drainage right of way on the record plat, but this is less than a fee simple and that he could not speak for Mr. Eason, who was not present, but that seems better than what was shown originally. Cruz said it is less than fee simple and the question was the maintenance of the trees and shrubs in the area unless the City definitely had to remove them for obstructions.

Mayor Marley asked if Council could approve it with this condition and if that is not agreeable, something else would have to be done. Cruz said Council could approve it subject to that condition, and before the Mayor signs off on the record plat, we must have the written document saying it is approved, and then it goes back to the Chairman for signature.

MOVED by Beller, SECOND by Purcell, to include the language as Mr. Cruz said: "however, the City will endeavor to maintain the trees and shrubs in their natural state if possible", and approve the record plat as recommended.

For the record, the recommended action was shown as follows: Approve the record plat for Stonebridge Estates and accept the water and sewer improvements, maintenance bond in the amount of \$22,039.05, a utility easement outside the platted area for the water main extension, and a warranty deed or easement outside the platted area for drainage.

Maples said if the area were left for Eason to maintain, he could make that decision, but if it is granted to the City, it will be up to the City staff to interpret whether or not it is needed. Beller said Eason felt comfortable with the language.

VOTE ON MOTION: AYE: Williams, Dutcher, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

Williams said staff had worked with this entity for a few months and it appeared that a number of issues came up at the eleventh hour and had to be worked out before the Council. He said if that could have been worked out before, it should have been. Williams said the construction industry employs a large number of people and the harder we make it for them to keep the progress going, the harder it will be to keep people working. He encouraged staff to work through the projects as best as possible so business can move forward.

10. Consider approving amendment to the lease agreement between the City of Lawton and the Lawton Arts For All, Inc. for office space at Town Hall. EXHIBITS: AMENDMENT; PROPOSED LEASE AGREEMENT.

MOVED by Beller, SECOND by Green, to approve the item. AYE: Dutcher, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

ADDENDUM: Consider adopting a resolution authorizing the installation of traffic control devices at the intersection of SW 8th and "I" Avenue. EXHIBITS: RESOLUTION NO. 97-27.

Shanklin said he listened to the tape when Council approved putting a yield sign at 8th and "I" but that he said 8th and "H", but the conversation dealt with 8th and "I" prior to that. He said the language should be cleaned up and that the yield signs should go on the north and south side of 8th Street at the intersection of "I", and the appropriate place for the Children At Play signs would be by the tennis courts on "I" as staff deems necessary.

MOVED by Shanklin, SECOND by Green, for approval of Resolution No. 97-27.

Purcell asked if the signs should be on 8th and "I" instead of 8th and "H". Shanklin said the signs were already in place on 8th and "H".

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Dutcher. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-27

A RESOLUTION AUTHORIZING THE INSTALLATION OF TRAFFIC CONTROL DEVICES AT CERTAIN DESIGNATED LOCATIONS WITHIN THE CITY OF LAWTON, OKLAHOMA.

#### CONSENT AGENDA:

11. ITEM CONSIDERED SEPARATELY AS SHOWN BELOW.

12. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing

the City Attorney to file a friendly suit for this claim which is over \$400.00: Dilsharm and Felesha Williams. EXHIBITS: LEGAL OPINION/RECOMMENDATION.

(Title only) RESOLUTION NO. 97-28

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST DILSHARM AND FELESHA WILLIAMS IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE REDUCED AMOUNT OF FIVE HUNDRED FIFTY-THREE DOLLARS AND 60/100S (\$553.60).

13. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers Compensation case of Marshall MacDonald in the Workers Compensation Court, Case No. 96-15704R. EXHIBITS: RESOLUTION NO. 97-29.

(Title only) RESOLUTION NO. 97-29

A RESOLUTION RATIFYING THE ACTIONS OF THE CITY ATTORNEY IN MAKING PAYMENT OF THE JUDGMENT IN THE WORKERS COMPENSATION CASE OF MARSHALL MACDONALD FOR THE AMOUNT OF EIGHTEEN THOUSAND, SIX HUNDRED FIFTY-FIVE DOLLARS (\$18,655.00) PER ORDER OF THE WORKERS COMPENSATION COURT, AND FILING A FOREIGN JUDGMENT IN THE DISTRICT COURT OF COMANCHE COUNTY FOR PURPOSES OF PLACING SAID JUDGMENT ON THE TAX ROLLS.

14. Consider accepting an easement from Mr. and Mrs. Dismuke for installation of a street light in Tomlinson Addition. EXHIBITS: NONE. ACTION: Accept easement on SE corner of Lot 14, Block 4, Tomlinson Addition (#12 NW 26th Street) from Mr. & Mrs. Dismuke for installation of a street light in Tomlinson Addition.

15. Consider adopting a street light resolution to authorize installation and removal of additional street lights in residential areas. EXHIBITS: STREET LIGHT RESOLUTION 394. ACTION: Adopt Street Light Resolution 394, which calls for installation of one light at #12 NW 26th Street, and replacement of one 100 watt light at the SE corner of NW 78th and Rogers Lane with a 250 watt light.

16. ITEM 16 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

17. Consider acknowledging receipt of a permit for the construction of modifications to the existing Wastewater Treatment Plant from the Oklahoma State Department of Environmental Quality to serve the City of Lawton, Comanche County, Oklahoma. EXHIBITS: NONE.

BACKGROUND: On January 24, 1997, the City of Lawton was granted Permit No. ST000016960884 from ODEQ for construction of modifications to the existing WWTP that will include a new 1400 GPM RAS pump station, 6000 GPM filter backwash waste pump station, 2500 GPM nitrification dewatering pump station, 700 GPM non-potable water pump station, 70 foot diameter trickling filter clarifier, flow equalization basin diurnal cell, and all appurtenances to serve the City of Lawton. A condition of the permit is that it must be noted in the minutes of the next regular meeting of the Lawton City Council. Permit is on file in City Clerks Office.

ACTION: Acknowledge receipt of a permit for the construction of modifications to the existing WWTP from ODEQ to serve the City of Lawton, Comanche County, Oklahoma.

18. ITEM 18 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

19. Consider approving the record plat for Pebble Creek Addition, Part 2B, and accepting the improvements and maintenance bonds. EXHIBITS: PLAT MAP. ACTION: Approve the record plat for Pebble Creek Addition, Part 2B, and accept the improvements, the maintenance bond in the amount of \$7,192.00 for water and sewer improvements and the maintenance bond in the amount of \$14,266.05 for street improvements.

20. Consider entering into a contract with Mr. Alan E. Jolly for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. EXHIBITS: NONE. ACTION: Approve the contract and authorize execution.

21. Consider approving contract change order of Custodial Maintenance Contract (CL96-128) with Service One Janitorial to exclude janitorial services for the Animal Shelter Administration Office (Item 3e of contract). EXHIBITS: CONTRACT CHANGE ORDER; MEMORANDUM. ACTION: Approve contract change order to exclude custodial services provided by Service One Janitorial Services to the Animal Shelter Administration Office, and authorize execution of the contract change order.

22. Consider extending contract for Fire Department Badges & Collar Insignia. EXHIBITS: VENDORS MAILING LIST; RECOMMENDATION. ACTION: Extend contract for Fire Department Badges & Collar Insignia with Law Enforcement Equipment Company, Kansas City, MO, and Hook-Fast Specialties, Providence, RI, and authorize execution of contract extension documents. Contract will be at the same terms through March 31, 1998.

23. Consider awarding contract for Dewatering Polymer. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. ACTION: Award contract to Allied Colloids, Inc., Suffolk, VA, and authorize contract execution.

24. Consider awarding contract for Jogging Track Material. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. ACTION: Award contract to Red Dog Track, Inc., Strawn, TX, and authorize contract execution.

25. Consider awarding contract for Outdoor Tennis Court Paint. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. ACTION: Award contract to BSN Sports, Dallas, TX, and authorize contract execution.

26. Consider awarding contract for Auctioneer Service. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. ACTION: Award contract to Stallings Auction Service, Lawton, OK, and authorize contract execution.

27. Mayors Appointments. EXHIBITS: NONE.

HUMAN RIGHTS & RELATIONS COMMISSION:

SFC Mechille McDonald, Fort Sill Rep., Term: 2/25/97 to 9/30/97

Janis Brennan, Native American Rep., Term: 2/25/97 to 9/30/98

PARKS & RECREATION COMMISSION:

Tom Hall, Ward 2 Rep., Term: 2/25/97 to 2/25/99

REDISTRICTING COMMISSION:

Kent Jester, Ward 2, Term: 2/25/97 to 7/1/2002

LAWTON METROPOLITAN AREA PLANNING COMMISSION (LMAPC):

David Means, City Rep., Term: 2/12/97 to 2/12/2001

AIRPORT AUTHORITY:

Ken Kleypas, Term: 2/24/97 to 2/24/2000

28. Consider approval of payroll for the period of February 10 through February 23, 1997. EXHIBITS: NONE.

Mayor Marley asked that Item 11 be considered separately as someone had asked to speak on it. Purcell asked that Items 16 and 18 be considered separately.

MOVED by Purcell, SECOND by Williams, to approve the Consent Agenda items as recommended with the exception of Items 11, 16 and 18. AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Dutcher, Purcell. NAY: None. MOTION CARRIED.

11. Consider the following damage claims recommended for denial: Cheryl and Scott McCullough; and Rexine Gibson. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. RECOMMENDED ACTION: Denial of claim.

Rexine Gibson was recognized to speak regarding her claim. She said she owns the property at 6103 Dearborn; on Friday, September 20, the tenant told her the sewer had backed up and that the bathroom facilities were not usable. A plumber was called, the line was rodded and it would only go as far as where it connects into the City's line. A second plumber was sent out for his opinion and it was the same. She said they dug down 12 feet to the connection to the City main and found that the City main had collapsed and that her riser had fallen into the City main and this was causing the problem. There was no problem with the 160 feet of line going from the main to the house.

Gibson said it was an expense to her of \$860, which was a real burden. She said her tenant was home while the work was being done and observed the problem and work, so she had his statements, as well as the two or three plumbers who were present. She said she had been led to believe from day one that this was a problem with the City line, and that she would not have filed a claim if the problem would have been with her line, but it was indicated to her in every respect, other than through the City Attorneys Office, that it was a problem created by the City and that was why she filed the claim.

Gibson said according to the letter from the City Attorneys Office, it is unknown whether the break in the main was due solely to the fall of the riser or if it existed before the riser fell. She said she could go only by what the plumbers said. Gibson said she realized it was the City Attorneys job to protect the City and the number of claims the City has received, and that she was in favor of having the things fixed. She said according to the information she had, this was a problem created by the City and asked that consideration be given to paying the claim.

Cruz said the question was whether the sewer line collapsed causing the riser to fall in, or did the riser cause the main to collapse. He said based on the best information they had, with the tapping bell which was made of aluminum which contributed to the corrosion of the main, that contributed to the riser falling into the main causing the main to collapse. Cruz said assuming the main had collapsed, the City had not received any prior notice that there was any defect on the main so on that basis also, the recommendation is for denial of the claim.

MOVED by Williams, SECOND by Purcell, for denial of the Gibson claim.

Shanklin said it is not the City's fault when the riser falls into the trunk line. Gibson said she had been led to believe all



along that it was the City's problem. Maples said the City had not received notice of a prior defect on the line so State Statute will not allow the Council to pay the claim, and if they do, they could each be held liable individually.

VOTE ON MOTION: AYE: Beller, Green, Warren, Maples, Williams, Dutcher, Purcell, Shanklin. NAY: None. MOTION CARRIED.

MOVED by Purcell, SECOND by Warren, to deny the McCullough claim. AYE: Green, Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

16. Consider accepting the Wastewater Treatment Plant Incinerator & Lime Slurry Demolition Project 96-9 by M & M Wrecking and placing the Maintenance Bond into effect. EXHIBITS: NONE. ACTION: Accept the project and place the maintenance bond into effect.

Purcell said the contractor finished 14 days early and \$45,000 under bid, and should be commended.

MOVED by Purcell, SECOND by Dutcher, to accept the Wastewater Treatment Plant Incinerator & Lime Slurry Demolition Project 96-9 by M & M Wrecking and place the maintenance bond into effect. AYE: Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

18. Consider waiving Council Policy 5-2, and consider an agreement for the sale of treated water to the J.T. Neal Grandchildren's Trust, Larry D. Neal, Trustee, to provide water service to the development of Wichita Ridge Estates subdivision. EXHIBITS: MAP; COUNCIL COMMITTEE MINUTES; PROPOSED AGREEMENT; COUNCIL POLICY 5-2. RECOMMENDED ACTION: Waive Council Policy 5-2 and approve the agreement.

Purcell asked if Council is being asked to waive a policy, and if there would be one water meter, or multiple meters, which was not to be done any more. Schumpert said the reason for waiving the Council Policy is that it states that in this situation, the area is required to be annexed into the City, and the recommendation is to waive that; the applicant agreed, in lieu of that, to put in the streets to the City standards, less the curbing. Schumpert said there will be only one meter.

Beller asked why we would care how the streets are built if the area will not be annexed. Schumpert said at some point in time, some Council will be given the opportunity to annex that. Mayor Marley asked why we wanted to accept it without the curbing if it will be annexed at some point, and if the City would have to do it later.

MOVED by Beller, SECOND by Dutcher, that Council Policy 5-2 be waived and that the agreement be approved.

Schumpert said the staff position is to annex the property; the Committee for Outside Water Sales told Neal if he would agree to put in the streets to City standard, less the curbs, it would recommend waiving the Council Policy and approving the agreement.

Purcell asked if the policy is to annex anyone outside the City limits who wants water. Schumpert said no, only if they fall within a certain criteria. Williams asked if they would be concrete or asphalt streets. Warren said probably a mixture to meet the City Code standards. Williams asked if someone recommended them doing the streets in order to be able to get water. Schumpert said according to the policy, in this situation, you should annex the property; the Committee for Outside Water Sales met with the applicant and their agreement was if you put the streets in to our standards, we will recommend that you be sold water, and not be annexed, and that was agreeable. Williams asked what the applicant said about being annexed and Schumpert said he did not want to be annexed. Shanklin said the houses would be located on several acre tracts, and curb and gutter would not be practical. Warren said the property falls into the timing area that would call for it to be annexed. Schumpert said it depends on the ridge lines and whether they have water available from a water association, etc.

VOTE ON MOTION: AYE: Maples, Williams, Dutcher, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

#### BUSINESS ITEMS:

29. Pursuant to Section 307B.3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the appraisal or acquisition of real property located at SW 6th and Texas Avenue (South of the Public Works Yard) in Section Six (6), Township One North (T-1-N), Range Eleven West (R-11-W), Indian Meridian, Comanche County, Oklahoma, and take appropriate action in open session if necessary. EXHIBITS: NONE.

30. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to consider a settlement offer received in a third party claim of Cathy A. Williams against Florence H. Elling, and take appropriate action in open session. EXHIBITS: NONE.

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss claims alleging unlawful arrest and assault and battery to claimants, Clayton L. Green, Jr. and Russell Lane Green, and take appropriate action in open session. EXHIBITS: NONE.

MOVED by Dutcher, SECOND by Maples, to convene in executive session to consider items so listed on the agenda. AYE:

Williams, Dutcher, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 9:20 p.m. and reconvened in regular, open session at 9:45 p.m. with roll call reflecting all members present.

Cruz said the Mayor and Council met in executive session to consider the three items on the agenda; on Item 29 relating to the property at 6th and Texas, no action is needed in open session.

Cruz said on Item 30 relating to the third party claim of Cathy Williams, recommendation of approval authorizing settlement of this case was made.

MOVED by Beller, SECOND by Maples, for approval of Resolution No. 97-30. AYE: Purcell, Shanklin, Beller, Green, Warren, Maples, Williams, Dutcher. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-30

A RESOLUTION APPROVING AND AUTHORIZING SETTLEMENT OF A THIRD PARTY CLAIM BY CATHY A. WILLIAMS AGAINST FLORENCE H. ELLING.

Cruz reported no action is needed on Item 31 at this time.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Maples reported that today is Council Member Shanklins birthday and everyone sang Happy Birthday to him.

Schumpert said Bar-S has apparently agreed to the contract for municipal services. He said the staff got put in a corner on that, but was attempting to prevent problems such as are now occurring in Altus.

Green said there were good comments in Jet Magazine in a February issue about Lawton, and that she would like to be able to read them.

Mayor Marley said March 11 is voting today and that is also the week of spring break. He encouraged those parents who may be out of town that week to get absentee ballots and for everyone to exercise their right to vote.

Shanklin said we had a person come before Council tonight indicating he felt he was being persecuted or picked on, and had a list of different businesses in town that have gravel parking areas. He said that was not where the City lost its \$20,000 judgment, but that was because the individual at Branders was forced to put in asphalt, and someone felt the City caused that because he would bring competition. Shanklin said many people know the City paid that \$20,000 judgment and lost because the rules supposedly were not being enforced equally, and that was the area used to prove it. He said you cannot put asphalt up against the curb and start driving in anywhere. Shanklin said the City receives letters from individuals wanting to clean up on Gore Boulevard, but evidently it did not bother them to see cars packed every which way. He said the City was not picking on any individual, and we were talking about putting asphalt against the curb and using it for a driveway, and that cannot be done.

There was no further business and the meeting adjourned at 9:50 p.m.